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25 LLC; REFUGE RECOVERY ,CLINICAL SERVICES, LLC; AND REBEL
SAINTS MEDITATION SOCIETY , DBA REFUGE RECOVERY RETREATS

16 **UNITED STATES DISTRICT COURT**

17 **CENTRAL DISTRICT OF CALIFORNIA**

18
19 REFUGE RECOVERY,

Case No. 2:19-CV-00635-MWF-MAA

20 Plaintiff,

**STIPULATED PROTECTIVE
21 ORDER**

vs.

22 NOAH LEVINE, REFUGE
23 RECOVERY HOUSE, LLC., REFUGE
24 RECOVERY CLINICAL SERVICES,
25 LLC,; REBEL SAINTS
MEDITATION SOCIETY dba
REFUGE RECOVERY RETREATS;
and DOES 1 through 10, inclusive,

Defendants.

26
27 AND RELATED COUNTER ACTION

28
STIPULATED PROTECTIVE ORDER

1 1. A. PURPOSES AND LIMITATIONS

2 Discovery in this action is likely to involve production of confidential,
3 proprietary, or private information for which special protection from public
4 disclosure and from use for any purpose other than prosecuting this litigation
5 may be warranted. Accordingly, the parties hereby stipulate to and petition the
6 Court to enter the following Stipulated Protective Order. The parties
7 acknowledge that this Order does not confer blanket protections on all
8 disclosures or responses to discovery and that the protection it affords from
9 public disclosure and use extends only to the limited information or items that
10 are entitled to confidential treatment under the applicable legal principles. The
11 parties further acknowledge, as set forth in Section 12.3, below, that this
12 Stipulated Protective Order does not entitle them to file confidential information
13 under seal; Civil Local Rule 79-5 sets forth the procedures that must be followed
14 and the standards that will be applied when a party seeks permission from the
15 court to file material under seal.

16

17 B. GOOD CAUSE STATEMENT

18 This action is likely to involve Protected Health Information (as defined in
19 2.16 below), financial, and/or proprietary information for which special
20 protection from public disclosure and from use for any purpose other than
21 prosecution of this action is warranted. Such confidential and proprietary
22 materials and information consist of, among other things, confidential business
23 or financial information, or commercial information (including information
24 implicating privacy rights of third parties), information otherwise generally
25 unavailable to the public, or which may be privileged or otherwise protected
26 from disclosure under state or federal statutes, court rules, case decisions, or
27 common law. Accordingly, to expedite the flow of information, to facilitate the
28 prompt resolution of disputes over confidentiality of discovery materials, to

adequately protect information the parties are entitled to keep confidential, to ensure that the parties are permitted reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

2. DEFINITIONS

2.1 Action: Refuge Recovery v. Noah Levine, et al., Case No. 2:19-CV-00635-MWF-MAA.

2.2 Challenging Party: a Party or Non-Party that challenges the designation of information or items under this Order.

2.3 “CONFIDENTIAL” Information or Items: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.

2.4 Counsel: Outside Counsel of Record and House Counsel (as well as their support staff).

2.5 Designating Party: a Party or Non-Party that designates information or items that it produces in disclosures or in responses to discovery as “CONFIDENTIAL.”

2.6 Disclosure or Discovery Material: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.

- 1 2.7 Expert: a person with specialized knowledge or experience in a
2 matter pertinent to the litigation who has been retained by a Party or
3 its counsel to serve as an expert witness or as a consultant in this
4 Action.
- 5 2.8 House Counsel: attorneys who are employees of a party to this
6 Action. House Counsel does not include Outside Counsel of Record
7 or any other outside counsel.
- 8 2.9 Non-Party: any natural person, partnership, corporation, association,
9 or other legal entity not named as a Party to this action.
- 10 2.10 Outside Counsel of Record: attorneys who are not employees of a
11 party to this Action but are retained to represent or advise a party to
12 this Action and have appeared in this Action on behalf of that party
13 or are affiliated with a law firm which has appeared on behalf of
14 that party, and includes support staff.
- 15 2.11 Party: any party to this Action, including all of its officers, directors,
16 employees, consultants, retained experts, and Outside Counsel of
17 Record (and their support staffs).
- 18 2.12 Producing Party: a Party or Non-Party that produces Disclosure or
19 Discovery Material in this Action.
- 20 2.13 Professional Vendors: persons or entities that provide litigation
21 support services (e.g., photocopying, videotaping, translating,
22 preparing exhibits or demonstrations, and organizing, storing, or
23 retrieving data in any form or medium) and their employees and
24 subcontractors.
- 25 2.14 Protected Material: any Disclosure or Discovery Material that is
26 designated as “CONFIDENTIAL.”
- 27 2.15 Receiving Party: a Party that receives Disclosure or Discovery
28 Material from a Producing Party.

1 2.16 Protected Health Information: shall have the same scope and
2 definition as set forth in 45 C.F.R. § 160.103 and 164.501,
3 including, but not limited to, information related to:
4 (a) The past, present, or future physical or mental condition of any
5 person, including third-parties;
6 (b) The provision of care to any person, including third-parties; and
7 (c) The payment for care provided to any person, including third parties,
8 which identifies the person or which reasonably could be expected
9 to identify the person.

10

11 3. SCOPE

12 The protections conferred by this Stipulation and Order cover not only
13 Protected Material (as defined above), but also (1) any information copied or
14 extracted from Protected Material; (2) all copies, excerpts, summaries, or
15 compilations of Protected Material; and (3) any testimony, conversations, or
16 presentations by Parties or their Counsel that might reveal Protected Material.

17 Any use of Protected Material at trial shall be governed by the orders of the
18 trial judge. This Order does not govern the use of Protected Material at trial.

19

20 4. DURATION

21 Once a case proceeds to trial, all of the information that was designated as
22 confidential or maintained pursuant to this protective order becomes public and
23 will be presumptively available to all members of the public, including the press,
24 unless compelling reasons supported by specific factual findings to proceed
25 otherwise are made to the trial judge in advance of the trial. See Kamakana v.
26 City and County of Honolulu, 447 F.3d 1172, 1180-81 (9th Cir. 2006)
27 (distinguishing “good cause” showing for sealing documents produced in
28 discovery from “compelling reasons” standard when merits-related documents

1 are part of court record). Accordingly, the terms of this protective order do not
2 extend beyond the commencement of the trial.

3 Even after final disposition of this litigation, the confidentiality obligations
4 imposed by this Order shall remain in effect until a Designating Party agrees
5 otherwise in writing or a court order otherwise directs. Final disposition shall be
6 deemed to be the later of (1) dismissal of all claims and defenses in this Action,
7 with or without prejudice; and (2) final judgment herein after the completion and
8 exhaustion of all appeals, rehearings, remands, trials, or reviews of this Action,
9 including the time limits for filing any motions or applications for extension of
10 time pursuant to applicable law.

11

12 **5. DESIGNATING PROTECTED MATERIAL**

13 **5.1 Exercise of Restraint and Care in Designating Material for**
14 **Protection.** Each Party or Non-Party that designates information or items for
15 protection under this Order must take care to limit any such designation to
16 specific material that qualifies under the appropriate standards. The Designating
17 Party must designate for protection only those parts of material, documents,
18 items, or oral or written communications that qualify so that other portions of
19 the material, documents, items, or communications for which protection is
20 not warranted are not swept unjustifiably within the ambit of this Order.

21 Mass, indiscriminate, or routinized designations are prohibited.
22 Designations that are shown to be clearly unjustified or that have been made for
23 an improper purpose (e.g., to unnecessarily encumber the case development
24 process or to impose unnecessary expenses and burdens on other parties) may
25 expose the Designating Party to sanctions.

26 If it comes to a Designating Party's attention that information or items that
27 it designated for protection do not qualify for protection, that Designating Party
28 must promptly notify all other Parties that it is withdrawing the inapplicable

1 designation.

2 5.2 Manner and Timing of Designations. Except as otherwise provided
3 in this Order (see, e.g., second paragraph of section 5.2(a) below), or as
4 otherwise stipulated or ordered, Disclosure or Discovery Material that qualifies
5 for protection under this Order must be clearly so designated before the material
6 is disclosed or produced.

7 Designation in conformity with this Order requires:

8 (a) for information in documentary form (e.g., paper or electronic
9 documents, but excluding transcripts of depositions or other pretrial or trial
10 proceedings), that the Producing Party affix at a minimum, the legend
11 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that
12 contains protected material. If only a portion or portions of the material on a
13 page qualifies for protection, the Producing Party also must clearly identify the
14 protected portion(s) (e.g., by making appropriate markings in the margins).

15 A Party or Non-Party that makes original documents available for
16 inspection need not designate them for protection until after the inspecting Party
17 has indicated which documents it would like copied and produced. During the
18 inspection and before the designation, all of the material made available for
19 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party
20 has identified the documents it wants copied and produced, the Producing
21 Party must determine which documents, or portions thereof, qualify for
22 protection under this Order. Then, before producing the specified documents, the
23 Producing Party must affix the “CONFIDENTIAL legend” to each page that
24 contains Protected Material. If only a portion or portions of the material on a
25 page qualifies for protection, the Producing Party also must clearly identify the
26 protected portion(s) (e.g., by making appropriate markings in the margins).

27 (b) for testimony given in depositions that the Designating Party identify
28 the Disclosure or Discovery Material on the record, before the close of the

1 deposition all protected testimony.

2 (c) for information produced in some form other than documentary and
3 for any other tangible items, that the Producing Party affix in a prominent place
4 on the exterior of the container or containers in which the information is stored
5 the legend “CONFIDENTIAL.” If only a portion or portions of the information
6 warrants protection, the Producing Party, to the extent practicable, shall identify
7 the protected portion(s).

8 5.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent
9 failure to designate qualified information or items does not, standing alone,
10 waive the Designating Party’s right to secure protection under this Order for
11 such material. Upon timely correction of a designation, the Receiving Party must
12 make reasonable efforts to assure that the material is treated in accordance with
13 the provisions of this Order.

14

15 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

16 6.1 Timing of Challenges. Any Party or Non-Party may challenge a
17 designation of confidentiality at any time that is consistent with the Court’s
18 Scheduling Order.

19 6.2 Meet and Confer. The Challenging Party shall initiate the dispute
20 resolution process under Local Rule 37.1 et seq.

21 6.3 The burden of persuasion in any such challenge proceeding shall be
22 on the Designating Party. Frivolous challenges, and those made for an improper
23 purpose (e.g., to harass or impose unnecessary expenses and burdens on other
24 parties) may expose the Challenging Party to sanctions. Unless the Designating
25 Party has waived or withdrawn the confidentiality designation, all parties shall
26 continue to afford the material in question the level of protection to which it is
27 entitled under the Producing Party’s designation until the Court rules on the
28 challenge.

1

2 7. ACCESS TO AND USE OF PROTECTED MATERIAL

3 7.1 Basic Principles. A Receiving Party may use Protected Material that
4 is disclosed or produced by another Party or by a Non-Party in connection with
5 this Action only for prosecuting, defending, or attempting to settle this Action.
6 Such Protected Material may be disclosed only to the categories of persons and
7 under the conditions described in this Order. When the Action has been
8 terminated, a Receiving Party must comply with the provisions of section 13
9 below (FINAL DISPOSITION).

10 Protected Material must be stored and maintained by a Receiving Party at
11 a location and in a secure manner that ensures that access is limited to the
12 persons authorized under this Order.

13 7.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless
14 otherwise ordered by the court or permitted in writing by the Designating Party,
15 a Receiving Party may disclose any information or item designated
16 “CONFIDENTIAL” only to:

17 (a) the Receiving Party’s Outside Counsel of Record in this Action, as
18 well as employees of said Outside Counsel of Record to whom it is reasonably
19 necessary to disclose the information for this Action;

20 (b) the officers, directors, and employees (including House Counsel) of
21 the Receiving Party to whom disclosure is reasonably necessary for this Action;

22 (c) Experts (as defined in this Order) of the Receiving Party to whom
23 disclosure is reasonably necessary for this Action and who have signed the
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25 (d) the court and its personnel;

26 (e) court reporters and their staff;

27 (f) professional jury or trial consultants, mock jurors, and Professional
28 Vendors to whom disclosure is reasonably necessary for this Action and who

1 have signed the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

2 (g) the author or recipient of a document containing the information or a
3 custodian or other person who otherwise possessed or knew the information;

4 (h) during their depositions, witnesses ,and attorneys for witnesses, in
5 the Action to whom disclosure is reasonably necessary provided: (1) the
6 deposing party requests that the witness sign the form attached as Exhibit A
7 hereto; and (2) they will not be permitted to keep any confidential
8 information unless they sign the “Acknowledgment and Agreement to

9 Be Bound” (Exhibit A), unless otherwise agreed by the
10 Designating Party or ordered by the court. Pages of transcribed deposition
11 testimony or exhibits to depositions that reveal Protected Material may be
12 separately bound by the court reporter and may not be disclosed to anyone
13 except as permitted under this Stipulated Protective Order; and

14 (i) any mediator or settlement officer, and their supporting personnel,
15 mutually agreed upon by any of the parties engaged in settlement discussions.

16

17 8. **PROTECTED MATERIAL SUBPOENAED OR ORDERED**
PRODUCED IN OTHER LITIGATION

18 If a Party is served with a subpoena or a court order issued in other
19 litigation that compels disclosure of any information or items designated in this
20 Action as “CONFIDENTIAL,” that Party must:

21 (a) promptly notify in writing the Designating Party. Such notification
22 shall include a copy of the subpoena or court order;

23 (b) promptly notify in writing the party who caused the subpoena or
24 order to issue in the other litigation that some or all of the material covered by
25 the subpoena or order is subject to this Protective Order. Such notification shall
26 include a copy of this Stipulated Protective Order; and

27 (c) cooperate with respect to all reasonable procedures sought to be

1 pursued by the Designating Party whose Protected Material may be affected.

2 If the Designating Party timely seeks a protective order, the Party served
3 with the subpoena or court order shall not produce any information designated in
4 this action as “CONFIDENTIAL” before a determination by the court from
5 which the subpoena or order issued, unless the Party has obtained the
6 Designating Party’s permission. The Designating Party shall bear the burden and
7 expense of seeking protection in that court of its confidential material and
8 nothing in these provisions should be construed as authorizing or encouraging a
9 Receiving Party in this Action to disobey a lawful directive from another court.

10

11 9. A NON-PARTY’S PROTECTED MATERIAL SOUGHT
12 TO BE PRODUCED IN THIS LITIGATION

13 (a) The terms of this Order are applicable to information produced by a
14 Non-Party in this Action and designated as “CONFIDENTIAL.” Such
15 information produced by Non-Parties in connection with this litigation is
16 protected by the remedies and relief provided by this Order. Nothing in these
17 provisions should be construed as prohibiting a Non-Party from seeking
18 additional protections.

19 (b) In the event that a Party is required, by a valid discovery request, to
20 produce a Non-Party’s confidential information in its possession, and the Party is
21 subject to an agreement with the Non-Party not to produce the Non-
22 Party’s confidential information, then the Party shall:

23 (1) promptly notify in writing the Requesting Party and the Non-
24 Party that some or all of the information requested is subject to a
25 confidentiality agreement with a Non-Party;

26 (2) promptly provide the Non-Party with a copy of the Stipulated
27 Protective Order in this Action, the relevant discovery request(s), and a
28 reasonably specific description of the information requested; and

(3) make the information requested available for inspection by the Non-Party, if requested.

(c) If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the “Acknowledgment and Agreement to Be Bound” that is attached hereto as Exhibit A.

11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal

1 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify
2 whatever procedure may be established in an e-discovery order that provides for
3 production without prior privilege review. Pursuant to Federal Rule of Evidence
4 502(d) and (e), insofar as the parties reach an agreement on the effect of
5 disclosure of a communication or information covered by the attorney-client
6 privilege or work product protection, the parties may incorporate their agreement
7 in the stipulated protective order submitted to the court.

8

9 12. **MISCELLANEOUS**

10 12.1 Right to Further Relief. Nothing in this Order abridges the right of
11 any person to seek its modification by the Court in the future.

12 12.2 Right to Assert Other Objections. By stipulating to the entry of this
13 Protective Order no Party waives any right it otherwise would have to object to
14 disclosing or producing any information or item on any ground not addressed in
15 this Stipulated Protective Order. Similarly, no Party waives any right to object on
16 any ground to use in evidence of any of the material covered by this Protective
17 Order.

18 12.3 Filing Protected Material. A Party that seeks to file under seal any
19 Protected Material must comply with Civil Local Rule 79-5. Protected Material
20 may only be filed under seal pursuant to a court order authorizing the sealing of
21 the specific Protected Material at issue. If a Party's request to file Protected
22 Material under seal is denied by the court, then the Receiving Party may file the
23 information in the public record unless otherwise instructed by the court.

24

25 13. **FINAL DISPOSITION**

26 After the final disposition of this Action, as defined in paragraph 4, within
27 60 days of a written request by the Designating Party, each Receiving Party must
28 return all Protected Material to the Producing Party or destroy such material. As

1 used in this subdivision, “all Protected Material” includes all copies, abstracts,
2 compilations, summaries, and any other format reproducing or capturing any of
3 the Protected Material. Whether the Protected Material is returned or destroyed,
4 the Receiving Party must submit a written certification to the Producing Party
5 (and, if not the same person or entity, to the Designating Party) by the 60 day
6 deadline that (1) identifies (by category, where appropriate) all the Protected
7 Material that was returned or destroyed and (2) affirms that the Receiving Party
8 has not retained any copies, abstracts, compilations, summaries or any other
9 format reproducing or capturing any of the Protected Material. Notwithstanding
10 this provision, Counsel are entitled to retain an archival copy of all pleadings,
11 motion papers, trial, deposition, and hearing transcripts, legal memoranda,
12 correspondence, deposition and trial exhibits, expert reports, attorney work
13 product, and consultant and expert work product, even if such materials contain
14 Protected Material, except that all Protected Health Information even in archival
15 copies will be returned or destroyed pursuant to this section 13. Any such
16 archival copies that contain or constitute Protected Material remain subject to
17 this Protective Order as set forth in Section 4 (DURATION).

18

19 14. Any violation of this Order may be punished by any and all appropriate
20 measures including, without limitation, contempt proceedings and/or monetary
21 sanctions.

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25 ///

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28 ///

1 IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.

2 Dated: June 13, 2019

COLEMAN & HOROWITT, LLP

3 */s/ Sherrie M. Flynn*

4 By:

5 DARRYL J. HOROWITT
6 SHERRIE M. FLYNN
7 CRAIG A. TRISTAO
8 Attorneys for Plaintiff REFUGE
9 RECOVERY

10 Dated: June 13, 2019

SMITHDEHN, LLP

11 */s/Russell A. Smith*

12 By:

13 RUSSELL A. SMITH
14 JEFFREY HOLMES
15 Attorneys for Defendants NOAH
16 LEVINE; REFUGE RECOVERY
17 HOUSE, LLC; REFUGE
18 RECOVERY CLINICAL
19 SERVICES, LLC; and REBEL
20 SAINTS MEDITATION SOCIETY

21 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED. DATED:

22 Dated: June 14, 2019

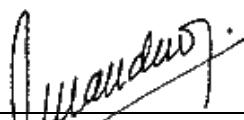
23 
24 HONORABLE MARIA A. AUDERO
25 UNITED STATES MAGISTRATE
26 JUDGE

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____ [print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Stipulated Protective Order that was issued by the United States District Court for the Central District of California on _____, 2019 in the case of _____.

Refuge Recovery v. Noah Levine, et al., Case No. 2:19-CV-00635-MWF-MAA

. I agree to comply with and to be bound by all the terms of this Stipulated Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Stipulated Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Central District of California for the purpose of enforcing the terms of this Stipulated Protective Order, even if such enforcement proceedings occur after termination of this action. I hereby appoint _____ [print or type full name] of _____ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name:

Signature: